

AMENDMENT NO. 1

SUPERFUND STATE CONTRACT

BETWEEN

THE STATE OF NEW JERSEY

AND THE

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

FOR REMEDIAL ACTIVITIES RELATED TO THE

PUCHACK WELL FIELD SUPERFUND SITE

IN THE STATE OF NEW JERSEY

Pursuant to Paragraph N of the Superfund State Contract for remedial activities at the Puchack Well Field Superfund Site (Site) executed on July 16, 2010, the State Superfund Contract is hereby amended to add an additional task, Task II, related to the remedial activities for Operable Unit 1 of the Site. The following provisions apply to the Tasks covered under this Amendment and any future Tasks unless agreed to otherwise.

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Puchack Well Field Site

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A. Authority

This Amendment No. 1 to the Superfund State Contract (the "Contract") is entered into pursuant to Section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), as amended, 42 U.S.C. § 9601 et seq.

B. Purpose

This Superfund State Contract Amendment No. 1 is an agreement between the United States Environmental Protection Agency ("EPA") and the State of New Jersey (the

"State") to conduct remedial activities at the Puchack Well Field Superfund Site (the "Site") located in Pennsauken Township, Camden County, New Jersey.

Attached and incorporated herein as Appendix A is a description of the Site. This Contract covers Task I and II activities as described in the Statement of Work (the "SOW") attached hereto and incorporated herein as Appendix B. Task I of the SOW was previously covered by the State Superfund Contract. This Amendment No. 1 adds Task II to the SOW. This contract may be amended pursuant to Paragraph N to undertake additional remedial activities beyond Tasks I and II of the SOW.

C. Parties' Representatives

1. EPA has designated Carole Petersen, Chief, New Jersey Remediation Branch, United States Environmental Protection Agency, Region II, 290 Broadway, New York, New York 10007-1866, (212) 637-4420 to serve as EPA Project Officer for this Contract.

2. The State has designated Edward Putnam, Assistant Director, Publicly Funded Response Element, New Jersey Department of Environmental Protection, Mail Code 401-05Q, 401 East State Street, P.O. Box 420, Trenton, New Jersey 08625, (609) 984-3074, to serve as the State Project Officer for this Contract.

D. Procurement

The EPA shall employ contractors and/or the U.S. Army Corps of Engineers (COE) to do the work described in Tasks I and II of the SOW and shall make all payments to the contractors and the COE for that work.

E. Financial Responsibilities of the Parties and Payments

1. EPA shall contribute 90 percent of the costs of Tasks I and II, provided, however, that it shall not be required to contribute more than \$14,999,966 for Task I and \$24,300,000 for Task II unless this Contract is amended in writing to provide for a higher limit on expenditures for the work covered by that Task. The State shall contribute 10 percent of the cost of Tasks I and II, provided, however, that it shall not be required to contribute more than \$1,666,663 for Task I and \$2,700,000 for Task II, unless this Contract is

amended to provide for a higher limit on expenditures for the work covered by those Tasks. The cost shares per Task are summarized in Attachment 1 to Appendix B, Payment Schedule Table. Expenditures by EPA of the funds contributed by the State shall not ensure actions at the Site beyond those specified in this Contract.

2. EPA and the State each shall, in addition to its contributions to the costs of the work described in the SOW as specified above, be responsible for furnishing the personnel, materials, services and facilities necessary for or incidental to the performance of its other obligations under the Contract, except as covered by a separate support agency (management assistance) cooperative agreement.
3. Payment Schedule. The State shall make its payments for construction costs under this agreement according to the following terms and conditions:
 - a. The State shall make its payments for construction costs in accordance with the Payment

Schedule Table (Attachment 1 to Appendix B), which identifies the Payment Events and the amounts due for each Task. The State shall pay EPA the amount associated with a completed Payment Event within sixty (60) days of EPA's submission of an invoice to the State.

- b. Payments outstanding on the attached Payment Schedule Table (Attachment 1 to Appendix B) that are due on the same date may be combined.
- c. After the final total cost is determined and supporting documentation is provided to the State as provided in Paragraph E.4, final payment by or reimbursement to the State will be made as follows:

- i. If the State statutory share of the final total cost is greater than the amount provided to EPA under subparagraph E.3.a, the State shall pay EPA the balance of its statutory share within sixty (60) days of

submission of an invoice to the State by
EPA.

ii. If the State statutory share of the final total cost is less than the amount provided to EPA under subparagraph E.3.a, EPA agrees to reimburse any such overpayment to the State within sixty (60) days after State submission of an invoice for reimbursement for these excess funds, subject to the availability of federal funds.

4. Within sixty (60) days of the date EPA makes the final payments to the contractors for the work described in Tasks I and II of the SOW, EPA shall calculate a final total cost for that work. The final total cost will be the sum of all payments to the contractors and the COE for that work. EPA shall give the State Project Officer notice of the final total cost promptly after calculating the cost, and simultaneously shall give the Project Officer copies of the invoices or other documentation supporting said cost.

5. The instruments of payment by the State shall be made payable to "USEPA - Hazardous Substances Superfund" and shall be sent to:

US Environmental Protection Agency

Superfund Payments

Cincinnati Finance Center

PO Box 979076

St. Louis, MO 63197-9000

The State shall enclose identification with the instrument of payment stating the site for which payment is being made and whether payment is for a state statutory share.

6. All EPA refunds to the State shall be made payable to "Treasurer, State of New Jersey" and shall be sent to:

New Jersey Department Environmental Protection

Division of Budget and Financial Operations

P.O. Box 420

Trenton, New Jersey 08625-0420

Attention: Director

7. If the parties amend this Contract to include any additional work as part of Task I and II, beyond that

already specified in Tasks I and II of the SOW, the final total cost of the work shall be calculated and applied in the same manner as specified for Tasks I and II.

F. Duration

This Contract shall become effective upon execution by both parties and shall remain in effect until September 30, 2022, or until completion of the activities described in the SOW, whichever occurs later. Pursuant to Paragraph N, the parties may agree to extend, by amendment, the duration of the Contract for the period necessary to implement any response activities that the parties agree to undertake beyond those defined in the SOW.

G. Off-site Storage, Destruction, Treatment or Disposition

1. Should EPA determine that off-site storage, destruction, treatment, or disposition (collectively, "Off-site Disposition") of hazardous substances is required for implementation of Tasks I and II of the SOW, it shall attempt to arrange for such Off-site

Disposition, provided, however, that ultimate responsibility to arrange for Off-site Disposition rests with the State. In the event that EPA is unable to arrange for such Off-site Disposition, the State shall, at EPA's request, make available a hazardous waste disposal facility which has adequate capacity and which meets the requirements of 42 U.S.C. § 9621(d)(3). The State agrees to furnish all legal and technical assistance necessary to accomplish such Off-site Disposition. Failure of the Parties to arrange for such Off-site Disposition shall be cause for termination of this Contract.

2. EPA's 2014 National Capacity Assessment shows that there is adequate national capacity for the treatment and disposal of hazardous waste through the year 2039. This assessment included 2011 Biennial Report data provided by the State. Based upon the assessment and other data, as appropriate, EPA expects that there will be adequate national hazardous waste treatment and disposal capacity during the 20-year period following signature of this SSC. The State hereby assures availability of hazardous waste

treatment or disposal facilities for the next 20 years, following signature of this SSC, pursuant to CERCLA 104(c)(9), 42 U.S.C 9604(c)(9).

In order to ensure the continued availability of capacity for the treatment and disposal of hazardous waste, the State agrees to work with EPA to meaningfully participate in the national capacity planning process and any activities needed to either identify shortfalls in capacity or to address any identified shortfalls.

H. Maintenance

The parties do not anticipate the need for any Maintenance (for the purpose of this Contract, the term "Maintenance" shall mean operating, repairing, servicing, environmental monitoring or any other activity necessary to insure normal performance and continuation in a good and serviceable condition) with regard to Tasks I and II. Pursuant to 42 U.S.C. §9604(c)(3), as amended, if any Maintenance is necessary, the State shall assure all future Maintenance

during the expected life of Tasks I and II, which will be determined by amendment.

I. Permits

In accordance with 42 U.S.C. § 9621(e) and 40 CFR 300, Federal, State, and local permits are not required for on-site Fund-financed remedial actions. Subject to the provisions of 42 U.S.C. section 9621, EPA shall, however, attain or exceed applicable or relevant and appropriate Federal, state or local public health or environmental requirements that have been identified for this Site consistent with the Records of Decision. Remedial actions which involve the storage, treatment or disposal of hazardous substances at off-site facilities shall involve only off-site facilities that are operating under appropriate Federal and State permits or authorization and other legal requirements.

J. Site Access

1. EPA shall attempt to secure access to the Site for itself, its agents and representatives, and for

contractors performing the work described in the SOW.

The State, however, shall assist EPA as requested, and shall retain to the extent of its legal authority the responsibility for obtaining site access if EPA efforts are not successful.

2. With reasonable advance notice to the EPA Project Officer, and upon condition that they comply with any site safety plan then in effect, employees and other representatives of the State shall have access to the Site.

K. Acquisition of Interests in Real Property

To the extent that any interests in real property are necessary for performance of the Contract and if such interests have not been acquired by the State, EPA shall use its best efforts to acquire such interests. The State agrees to accept transfer of such interests following completion of the remedial action, in accordance with CERCLA. The cost of acquiring such interest in real property shall be paid for as provided in paragraph E.1. Further, the State agrees to furnish all legal and

technical assistance necessary to accomplish such acquisition by EPA. Nothing in this Contract shall impair or otherwise affect the right of the United States or the State to file any lien(s) on the real property which is the subject of this Contract pursuant to the provisions of SARA or pursuant to any other statutory or equitable grounds.

L. Information Regarding the Site

1. At EPA's request, and to the extent allowed by State law, the State shall make available to EPA any information in its possession concerning the Site, with the exception of deliberative and policy documents which the State would not otherwise be required to disclose, including those documents subject to the attorney-client privilege. At the State's request, and to the extent allowed by Federal law, EPA shall make available to the State any information in its possession concerning the Site, with the exception of deliberative and policy documents which the EPA would not otherwise be required to disclose, including those documents subject to the attorney - client privilege.

2. If any information is provided to EPA by the State under a claim of confidentiality, it will be treated in accordance with 40 CFR Part 2 if the State has given EPA notice of the claim of confidentiality. EPA will not disclose information submitted under a claim of confidentiality unless EPA is required to do so by Federal law and has given the State ten (10) working days advance notice of EPA's intent to release that information. Absent notice of such claim, EPA may make said information available to the public without further notice.

3. If any information is provided to the State by EPA under a claim of confidentiality, it shall be treated in accordance with State law if EPA has given the State notice of the claim of confidentiality. The State shall not disclose information submitted under a claim of confidentiality unless the State is required to do so by State law and has given EPA ten (10) working days advance notice of the State's intent to release that information. Absent notice of such

claim, the State may make said information available to the public without further notice.

M. Failure to Comply with Terms of Contract

1. If the State fails to comply with the terms of this Contract, EPA may proceed under the provisions of 42 U.S.C. §9604.

2. If EPA fails to comply with the terms of this Contract, no action for damages or any other form of remedy shall be commenced until the State has given EPA sixty (60) days written notice of intent to file suit.

N. Amendments

Any change in this Contract must be agreed to by both parties in writing.

O. Community Relations Plan

EPA has developed and implemented a Community Relations Plan.

P. Third Parties

1. This Contract is intended to benefit only the State and EPA. It extends no benefit or right to any third party.
2. Neither EPA nor the State assumes any liability to third persons with respect to losses due to bodily injury or property damages resulting in any way from work performed in connection with this Contract, nor does either party waive any rights or immunities provided by law.
3. The execution of this Contract does not constitute a waiver of EPA's right to bring an action against any person or persons for appropriate relief under any provision of CERCLA or any other provision of law.
4. The execution of this Contract does not constitute a waiver of the State's right to bring an action against any person or persons for appropriate relief under any applicable State or Federal law.

Q. Enforcement and Cost Recovery

1. **Disclaimer of Agency Relationship**

Nothing contained in this Contract shall be construed to create, either expressly or by implication, the relationship of agency between EPA and the State. Any standards, procedures or protocols prescribed in this Contract to be followed by EPA or its contractors during the performance of its obligations under this Contract are for assurance of the quality of the final product of the actions contemplated by this Contract and do not constitute a right to control the actions of the EPA. EPA (including its employees and contractors) is not authorized to represent or act on behalf of the State in any matter relating to the subject matter of this Contract and the State (including its employees and contractors) is not authorized to represent or act on behalf of the EPA in any matter relating to the subject matter of this Contract.

2. **Notice of Intent to Settle or to Initiate Proceedings**

EPA and the State agree that, with respect to the claims which each may be entitled to assert against any third person (herein referred to as the "responsible party," whether one or more) for response activities at the Site described in this Contract, neither EPA nor the State will commence settlement negotiations with a responsible party except after having given prior written notice to the other party to this Contract in advance of the commencement of settlement negotiations, nor will EPA or the State enter into a settlement with, or initiate a judicial or administrative proceeding against, a responsible party except after having given notice in writing to the other party to this Contract not less than thirty (30) days in advance of the date of the proposed settlement or commencement of the proposed judicial or administrative proceedings.

Neither party to this Contract shall attempt to negotiate on behalf of the other party, and authority to do so is hereby expressly negated and denied.

3. **Cooperation and Coordination in Enforcement and Cost Recovery Efforts**

EPA and the State agree that they will cooperate and coordinate efforts to recover their respective costs for response actions taken at the Site described herein, including settlement negotiations and the filing and management of any judicial actions against potentially responsible parties. This shall include coordination in the use of evidence and witnesses and in the preparation and presentation of any enforcement or cost recovery action. Any documents or information which may be confidential under the provisions of any applicable State or Federal law or regulation may be withheld notwithstanding the terms of this paragraph.

4. Judicial Action

EPA and the State agree that any judicial action taken pursuant to CERCLA by either party against a potentially responsible party for recovery of any sums expended in response actions at the Site described herein shall be filed in the United States District Court for the judicial district in which the Site is located, or in such other judicial district of the United States as may be authorized by 42 U.S.C. § 9613

and agreed to in writing by the parties to this Contract.

5. **Assumption of Work by Responsible Party**

- a. If any responsible party notifies EPA in a timely manner of its willingness to perform the activities delineated in the Statement of Work and Scope of Work attached hereto, and any amendments thereto, EPA shall immediately notify the State of such offer and, after consultation with the State, will determine whether to offer the responsible party the opportunity to undertake the work. If EPA decides to make such an offer, it shall notify the State in writing of that fact. EPA then will provide the responsible party with a detailed work plan identifying the work to be performed. The responsible party shall have two (2) weeks in which to review the detailed work plan and to indicate its desire to undertake the activities described therein. If EPA, after consultation with the State, determines that the responsible party is capable of properly and promptly performing the work, it

may enter into an agreement with the responsible party for the work.

- b. If EPA determines that the responsible party is unable or unwilling to perform any of the activities of the Scope of Work and/or Statement of Work in a manner acceptable to EPA, EPA will promptly so notify the State in writing.
- c. Each party recognizes that any agreement it executes with a responsible party pursuant to this paragraph shall not be construed to waive or limit such rights as the other party may have to enter into a different settlement with, initiate a judicial or administrative proceeding against, or assert any claims against said responsible party consistent with such laws, regulations and policies as may apply to the performance of remedial measures at the Site.
- d. If EPA enters into a settlement with a responsible party to undertake the work covered by Task II of the SOW after the State has paid

its statutory cost share, as defined in paragraph E.1., EPA will reimburse the State for such costs within sixty (60) days after State submission of an invoice for reimbursement for these funds, subject to the availability of federal funds.

6. Evidence Documentation

EPA shall implement the standard agency protocol for the documentation of evidence at the Site.

In witness whereof, the parties hereto have executed this
Superfund State Contract Amendment No. 1 for remedial activities
at the Puchack Well Field Superfund site in two (2) copies, each
of which shall be deemed an original.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY



Acting Director,

Emergency and Remedial Response Division

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION

April 6, 2017

Date

Assistant Commissioner,

Site Remediation Program and Waste Management

Date

Approved as to Legality and Form

ATTORNEY GENERAL OF NEW JERSEY

Date

PUCHACK WELL FIELD SITE
SITE DESCRIPTION

The Puchack Well Field Site is located in a commercial, industrial and residential neighborhood of Pennsauken Township, Camden County, New Jersey. The Puchack Well Field Site Operable Unit 1 (OU1) is defined by the location of the chromium- contaminated groundwater that contains concentrations of chromium greater than the New Jersey Department of Environmental Protection's (NJDEP's) Groundwater Quality Standard for total chromium.

The chromium-contaminated groundwater is situated in an area roughly bounded to the north by Route 90, to the east by Westfield Avenue, to the south by Cove Road, and to the west by the Conrail railroad track. Residences, schools, churches, commercial buildings, industrial development, and two cemeteries occupy this area.

Groundwater contamination was first detected at a limited number of wells at the Puchack Well Field in the early 1970s. Subsequent sampling in the early 1980s showed contamination in additional wells. In 1984 use of the well field as a source of potable water was terminated. Other well fields, which remain unimpacted by the chromium plume, continue to be used to meet local and regional water needs.

In 1997, the United States Geological Survey (USGS), in cooperation with the NJDEP, initiated a field investigation of the groundwater contamination of the Pennsauken Township area. Based on sampling results from this USGS investigation, total chromium levels in the Middle aquifer were found to range from non-detectable levels to 10,250 parts per billion (ppb), in the Intermediate Sand aquifer ranged from 2.0 ppb to 9,070 ppb, and in the Lower aquifer the levels of chromium ranged from non-detect to 3,454 ppb.

The Puchack Well Field Site was placed on the National Priorities List (NPL) on March 6, 1998. After several rounds of groundwater studies, performed by NJDEP, USGS, and EPA, the final Operable Unit (OU1) Remedial Investigation (RI) report describing the RI results was completed in January 2006.

The results of the RI formed the basis for the development of the OU1 Feasibility Study (FS) Report, which was released concurrently with the site's Proposed Plan in July 2006. The Record of Decision (ROD) for the Site's OU1 remedy was issued in September 2006. The ROD calls for:

- Geochemical fixation through injection of a reducing agent to treat groundwater containing concentrations of total chromium greater than the New Jersey Groundwater Quality Standard for total chromium;
- Implementation of a long-term groundwater sampling and analysis program to assess the effectiveness of the action and natural attenuation of the chromium contamination over

time; and,

- Institutional controls, such as designation of a Classification Exception Area, to restrict the installation of wells and the use of groundwater in areas of chromium- contaminated groundwater.

Due to the size of the plume, the OU1 remedy is being performed in two Phases. Phase 1 (i.e., Task I), which addressed the upgradient portion of the Intermediate Sand and Lower aquifer plumes, as well as portions of the Middle Aquifer was completed in December 2016. Phase 2 (i.e., Task II) will address the remaining areas of the groundwater contamination in the Middle, Intermediate Sand and Lower Aquifer.

A ROD for the site's second and final Operable Unit (OU2) was issued in September 2011. The OU2 ROD addresses the source of the groundwater's chromium plume, specifically an area of soil contaminated with hexavalent chromium. The ROD calls for geochemically treating the soil to reduce the hexavalent chromium to trivalent chromium.

The OU2 remedy, which was effectively completed in 2016, was implemented by the site's potentially responsible party (S.L. Industries Incorporated) as part of an ability-to-pay settlement.

Appendix B

STATEMENT OF WORK

Puchack Well Field Superfund Site

Work to be Performed

Engineering, construction and other services necessary to complete the following tasks at the Puchack Well Field Superfund Site for Operable Unit 1:

Task I

Implementation of Phase 1 of the selected Groundwater Remedy, as described in Appendix A and the Record of Decision (ROD) for Operable Unit One (OU1), signed September 28, 2006. This task includes implementation of a portion of the in-situ groundwater treatment using geochemical fixation.

Estimated Cost: \$16,666,629

Task II

Implementation of Phase 2 of the selected Groundwater Remedy, as described in Appendix A and the Record of Decision (ROD) for Operable Unit One (OU1), signed September 28, 2006. This task includes implementation of the remainder of the in-situ groundwater remedy using geochemical fixation.

Estimated Cost: \$27,000,000

Cost Estimate (by Task):	Task I Capital Costs
	\$16,666,629
State Share (10%)	\$ 1,666,663
Federal Share (90%)	\$14,999,966
Payment Events:	Task I (% of Estimate)
Commitment of Funds for Construction	\$166,666 (1%) (Paid)
Award of Construction Contract	\$666,666 (4%) (Paid)
Letter of Acceptance of Construction Contract	\$666,664 (4%)

Date Prepared:

Cost Estimate (by Task):	Task II Capital Costs
	\$27,000,000
State Share (10%)	\$ 2,700,000
Federal Share (90%)	\$24,300,000
Payment Events:	Task II (% of Estimate)
Commitment of Funds for Construction	\$270,000 (1%)
Award of Construction Contract	\$1,080,000 (4%)
Letter of Acceptance of Construction Contract	\$1,080,000 (4%)

Date Prepared:

Note 1: These Tables provide the amounts to be used in making estimated payments in accordance with Paragraph E.3.a. Payment of the balance of the State's 10 percent cost share (a final payment by, or reimbursement to, the State) is addressed in Paragraph E.3.c.

Note 2: EPA and NJDEP agree that for Task II only, EPA will initially bill NJDEP in accordance with the Payment Schedule, but only commensurate with the amount of funds committed to Task II.

